IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 26180 of 2007(N)

PETITIONER:

SUKUMARAN, S/O. VELAYUDHAN,
PUTHENPURACKAL HOUSE, MUTTUCHIRA
VILLAGE, KOTTAYAM.

BY ADV. SRI.A.K.HARIDAS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVT., HOME DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. SUB INSPECTOR OF POLICE,
KADUTHURUTHY POLICE STATION, KOTTAYAM.

3. VINODAN, S/O. VELAYUDHAN, PUTHENPURACKAL
HOUSE, MUTTUCHIRA VILLAGE, KOTTAYAM.

BY GOVERNMENT PLEADER SRI.P.A.SALIM
SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 26180/2007

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE JUDGMENT IN OS 201/97 DT. 31.1.00

EXT. P2 TRUE COPY OF THE DECREE IN OS 201/97 DT. 31.1.00

EXT. P3 TRUE COPY OF THE JUDGMENT IN AS 160/00 DT. 18.7.05

EXT. P4 TRUE COPY OF THE JUDGMENT IN RSA 718/06 DT. 7.11.06

EXT. P5 TRUE COPY OF THE COMPLAINT DT. 17.6.07 FILED BEFORE THE 2ND RESPONDENT

EXT. P6 TRUE COPY OF THE NEWS ITEM PUBLISHED BY MALAYALA MANORAMA DAILY DT. 20.6.07

RESPONDENT'S EXHIBITS:

EXT. R3 TRUE COPY OF THE ORDER IN IA 1246/07 IN AS 345/07 OF DISTRICT COURT, KOTTAYAM

/TRUE COPY/

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 26180 of 2007 N

JUDGMENT

Balakrishnan Nair, J.

The petitioner and the third respondent are brothers. The petitioner is proposing to construct a residential building in the share allotted to him, as per Exhibit P2 decree. According to the petitioner, the third respondent is causing obstruction to the same. Against the obstruction, the petitioner moved the police. No action was taken by the police. Hence this writ petition.

2. The third respondent would point out that Exhibit P2 is only a preliminary decree. A final decree has been passed by the execution court and aggrieved by the allotment of shares and demarcation of the property, the third respondent has moved the appellate court and obtained Exhibit R3(a) stay order. Only after the dispute regarding demarcation of the property is resolved, the petitioner can start

construction of the residential building, it is submitted.

3. The second respondent has filed a statement stating that there is no law and order problem warranting interference by the police. According to the police, the property allotted to the petitioner is not clearly demarcated.

4. Heard the learned counsel on both sides. We have no doubt, this is not a dispute, in which the police could be asked to interfere. The petitioner has to move the civil court and get appropriate orders. If those orders are violated by the third respondent, the civil court has ample powers to address the police to enforce its orders.

Accordingly, the writ petition is dismissed without prejudice to the contentions of the petitioner and his right to move the competent civil court and seek appropriate orders.

(K.Balakrishnan Nair, Judge)

3rd December, 2007

(K.P.Balachandran, Judge)

tkv